

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform And)	
Modernization)	WC Docket No. 11-42
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
Advancing Broadband Availability)	
Through Digital Literacy Training)	WC Docket No. 12-23
To: Wireline Competition		
Bureau		

COMMENTS OF HOPI TELECOMMUNICATIONS, INC. AND FRONTIER COMMUNICATIONS

Hopi Telecommunications, Inc. (“HTI”) and Frontier Communications (“Frontier”), pursuant to the Public Notice released on August 10, 2012¹ hereby respectfully submits its comments in opposition to the “Petition for Limited Waiver” filed by Smith Bagley, Inc. (“SBI Petition”).² In its petition, SBI asserts that “it is not feasible for SBI to implement the new recertification rules in all circumstances”³ and requests that the Commission permit it to recertify customers who reside “in the most remote areas and who may not contact the phone company for many months” to “recertify when their contracts are renewed.”⁴

¹ See *Wireline Competition Bureau Seeks Comment on TracFone, Smith Bagley, and I-Wireless Petitions for Declaratory Ruling and Waiver of the Commission’s Recertification Requirement for Lifeline*, WC Docket Nos. 11-42, 03-109, 12-23; CC Docket No. 96-45, Public Notice, DA 12-1308 (rel. August 10, 2012) (“Public Notice”).

² See Petition for Limited Waiver, WC Docket 11-42 et al., CC Docket No. 96-45 (filed June 26, 2012); (“SBI Petition”); Petition for Waiver of Section 54.410(f) of the Commission’s Rules, WC Docket 11-42 et al., CC Docket No. 96-45 (filed July 23, 2012) (“i-Wireless Petition for Waiver”); 47 C.F.R. § 54.410(f); Lifeline and Link Up Reform and Modernization et al, WC Docket No.11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, App. C (2012) (“Lifeline Reform Order”).

³ See SBI Petition at p. 1.

⁴ See SBI petition at p. 11.

SBI provides Lifeline support to 55,000⁵, or 71% of all tribal Lifeline subscribers in Arizona, New Mexico, and Utah,⁶ in addition to approximately 7,000 non-Tribal Lifeline customers.⁷ In Arizona, SBI is the largest recipient of federal Lifeline and Tribal Link Up support, receiving more than \$4.6 million in disbursements from USAC during second quarter 2012—more than half of the \$7.8 million received by all eligible telecommunications carriers (“ETCs”) in the state.⁸ Allowing SBI to continue to receive Lifeline support for customers who ignore recertification attempts would undermine the Commission’s efforts to mitigate waste, fraud, and abuse by permitting potentially ineligible subscribers and SBI to continue to receive support from the federal Lifeline fund.

I. Disconnecting Non-Responders is Integral to Protecting the Integrity of the Lifeline Fund

A. SBI Contracts Discourage Ineligible Customers from Responding to Recertification Attempts

SBI requires that its Lifeline customers sign 40-month contracts, for which they pay for all months of service upfront.⁹ Requiring Lifeline customers to prepay for service disincentivizes ineligible Lifeline subscribers from stepping forward and admitting that they are in fact no longer eligible for Lifeline. By virtue of simply refusing to respond to recertification requests, ineligible Lifeline subscribers could receive Lifeline until 2015. This would result in a perverse system that rewards ineligible subscribers for failing to follow the Commission’s rules. Reimbursing SBI for these ineligible subscribers would result in \$400 per year per ineligible subscriber in wasted Lifeline funds.

B. Recertification Is Necessary to Identify Duplicative Support and Multiple Household Dwellings

It is commonly understood that identifying unique addresses on tribal lands is difficult.¹⁰ As such, there may be many instances in which one household is benefiting from multiple Lifeline discounts. Although SBI supports a more liberal allocation of Lifeline support than the

⁵ See SBI December 15, 2011 Comments at p. 2.

⁶ See Universal Service Administrative Company Lifeline Subscribers by State or Jurisdiction January 2012 to March 2012.

⁷ See SBI Petition at p. 2.

⁸ See Universal Service Administrative Company Quarterly Low Income Support Disbursement Amounts by Company 2Q2012.

⁹ <http://www.cellularoneonline.com/visionone1.php> last accessed August 22, 2012.

¹⁰ See SBI April 21, 2011 Comments at p. 14; See also Navajo Nation Division of Community Development March 24, 2011 Letter at p. 1; HTI January 18, 2012 Comments at p. 8; and Navajo Nation Telecommunications Regulatory Commission January 20, 2012 comments at p. 4.

one adopted by the Commission,¹¹ the current rules permit only one Lifeline discount per household.¹² Since SBI asserts that it cannot reasonably ascertain a Lifeline customer's address then it is incumbent upon the subscriber in such situations to self-certify that neither he nor anyone in his household is receiving duplicative support.

Alternately, in Tribal communities, multiple households may reside in one dwelling (e.g., hogan). It is therefore necessary for a Lifeline customer to identify when his/her residence is comprised of multiple households. Indeed, it is for these very situations that the *Lifeline Household Worksheet* was created.¹³ A variation of this requirement previously was advocated by SBI.¹⁴ Failure to require all tribal Lifeline customers to complete the annual recertification, and therefore not have the opportunity to complete the Lifeline Household Worksheet when duplicate households are identified, may result in numerous households receiving multiple Lifeline discounts.

II. Lifeline Customers are Accustomed to Recertification Requirements

The Commission's requirement that Lifeline recipients recertify their continued eligibility is consistent with other needs-based programs. Indeed, Arizona requires that recipients of AHCCS (Medicaid),¹⁵ Nutrition Assistance (SNAP),¹⁶ and TANF Cash Assistance¹⁷ renew their benefits every six months. In New Mexico, Medicaid recipients must renew their coverage every 12 months.¹⁸ Also, in Utah, Medicaid recipients must renew their coverage every three to six months, and their Food Stamp eligibility every three months, including an annual face-to-face meeting.¹⁹ As such, the Lifeline recertification rules do not impose an unexpected requirement on Lifeline customers.

Moreover, the requirement to recertify Lifeline eligibility is not new. Between 2005 and 2011, ETCs in many states were required to recertify a statistically valid sample of its Lifeline

¹¹ See SBI April 21, 2011 Comments at p. 8; See also SBI December 15, 2011 Comments at p. 2; SBI August 26, 2011 Comments at p. 4; and SBI July 15, 2010 Comments at p. 3.

¹² 47 C.F.R. 54.409(c).

¹³ "In cases where multiple households reside at an address, including in Tribal communities and group living facilities, program applicants must affirmatively certify that other Lifeline recipients residing at that address are part of a separate household, *i.e.*, a separate economic unit that does not share income and expenses." (Lifeline Reform Order, para. 77).

¹⁴ "Enrollment forms used by carriers providing service to residents of single-room Navajo hogans could include the definition of —household...and could provide for self-certification by the qualifying consumer that the consumer resides in a single room Hogan, and that the consumer is the only member of his or her household seeking Lifeline assistance." (See SBI April 21, 2011 Comments at p. 13).

¹⁵ <https://www.azdes.gov/main.aspx?menu=357&id=5262> last accessed on August 22, 2012

¹⁶ <https://www.azdes.gov/main.aspx?menu=355&id=5208> last accessed on August 22, 2012

¹⁷ <https://www.azdes.gov/main.aspx?menu=358&id=5281> last accessed on August 22, 2012

¹⁸ <http://www.hsd.state.nm.us/mad/HRenewMedicaid.html> last accessed on August 27, 2012

¹⁹ http://www.acf.hhs.gov/programs/opre/welfare_employ/assess_medicaid/reports/medicaid_foodstamp/medicaid_chp5.html last Accessed on August 23, 2012.

subscribers annually, while in other states ETCs were required to verify all of its Lifeline subscribers annually.²⁰ One would assume that SBI, over the previous six years, had developed best practices to mitigate the concerns outlined in its petition.

III. The SBI Petition Exaggerates the Potential Burden Posed by Recertification

The Commission provided ETCs with numerous methods to capture respondents' certification information including—interactive voice recordings (IVR), electronically, and via text message. Indeed, the Tribally-owned telecommunications companies fully supported the Commission's attempt to streamline the recertification process.²¹ In its own reply comments to the Further Notice of Proposed Rulemaking, SBI acknowledged:

SBI can think of no practical or policy reason why refreshing a subscriber's information cannot be done each year using IVR. Moreover, this would reduce administrative burdens to Lifeline subscribers and participating ETCs.²²

However, in the SBI Petition, SBI does not explore this option. Instead, SBI asserts that it will take either face-to-face or live person telephone calls to recertify its Lifeline subscribers and even then it cannot recertify everyone,²³ a position that it had previously described as "intrusive...confus[ing]...potentially dangerous...burdensome...and costly" for minimal gain except "in-person testimonials about household status and eligibility."²⁴

Frontier and HTI acknowledge that recertifying Tribal Lifeline customers may be, in some instances, more difficult than recertifying non-Tribal Lifeline customers. However, the SBI approach to recertification described in its proposal overstates the challenge and costs by failing to consider all options available for recertification. SBI asserts that it will cost approximately \$35 per subscriber to conduct its annual recertification effort (one month of support).²⁵ However, a third party advertises that it can conduct recertifications starting at \$0.60 per transaction, significantly less than the amount calculated by SBI.²⁶

IV. The Commission Should Deny SBI's Request for Waiver

As discussed above, HTI and Frontier believe that the proposal posed by SBI greatly exaggerates the administrative burden caused by the annual recertification rules, and downplays the negative impact that allowing potentially ineligible Lifeline subscribers to remain

²⁰ See 2004 Lifeline and Link Up Order and FNPRM, 19 Commission Rcd. at 8326-28, para. 33.

²¹ See National Tribal Telecommunications Association April 9, 2012 Comments.

²² See SBI May 1, 2012 Reply Comments at p. 7.

²³ See SBI Petition at p. 6.

²⁴ See SBI April 21, 2011 Comments at p.16.

²⁵ See SBI Petition at p. 7.

²⁶ http://www.solixinc.com/internet/Solix_Lifeline_Recertification_Solution.aspx last accessed on August 29, 2012.

on the rolls will have on the integrity of the federal Lifeline fund. As such, HTI and Frontier believe that as one of the largest beneficiaries of Tribal Lifeline and Link Up, it is imperative that SBI engage in a substantive recertification effort to ensure that all of its current Lifeline customers are indeed eligible for Lifeline in accordance with 47 C.F.R. §54.410, and make the required certifications. Failure to do so would leave a large portion of Tribal Lifeline susceptible to waste, fraud, and abuse. For the foregoing reasons, HTI and Frontier urges the Commission to deny SBI's request for a waiver of the recertification rules.

Respectfully submitted,

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